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9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12
13

14 **Jeff Macy, as an individual, Jerusha**
15 **Macy, as an individual, Josiah Macy,**
16 **as an individual, and Jodiah Macy, as**
an individual,

17 Plaintiffs,

18 v.

19 **California Highway Patrol, a State**
20 **Agency; Officer Christopher Bates;**
21 **Supervisor Officer Sergeant Jeffrey**
22 **O'Brien, and Does 1 - 10, inclusive,**

Defendants.

5:23-CV-02245-RGK-BFM

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S DISCOVERY
MOTION (ECF 63)**

Judge: Hon. Brianna Fuller Mircheff
Trial Date: TBA
Action Filed: 5/06/2024

23 **INTRODUCTION**

24 Pursuant to the Court's Order (ECF 73), Defendants Officer Christopher Bates
25 and Sergeant Jeffrey O'Brien hereby respond to Plaintiff Jeff Macy's discovery
26 motion (ECF 63). Defendants provided an additional copy of the Wireless Mobile
27 Video Audio System (WMVARS) video taken by Sergeant O'Brien's patrol vehicle
28 dashboard camera, to replace the cracked CD-ROM. Additionally, an unexplained

1 technical problem has added additional time to the Mobile Video Audio Recording
2 System (MVARs) video taken by Officer Bates's patrol vehicle dashboard camera.
3 Finally, due to the difference in WMAVRS and MVARs systems, a date and time
4 stamp is not embedded on the Bates's MVARs video.

5 **LEGAL ARGUMENT**

6 **I. PLAINTIFF'S DISCOVERY MOTION (ECF 63).**

7 Plaintiff's motion alleges the following issues:

- 8 1. The CD-ROM of the WMVARS video of Officer O'Brien's patrol vehicle
9 was intentionally cracked.
- 10 2. The MVARs video of Sergeant Bates's patrol vehicle does not have a time
11 and date stamp, the audio is distorted and is intentionally edited to shorten
12 the video.

13 **II. THE CD-ROM OF DEFENDANT O'BRIEN'S MVARs WAS NOT** 14 **INTENTIONALLY CRACKED, AND A SECOND COPY WAS OVERNIGHTED** **TO PLAINTIFF.**

15 On Sunday November 3, 2024, our office was served with a copy of Plaintiff's
16 motion¹. (Declaration of Julio A. Hernandez, ¶2.) The unfiled motion indicated that
17 Plaintiff had received a cracked CD-ROM of the WMVARS video of Sergeant
18 O'Brien's dashcam video. On November 4, 2024, counsel Deputy Attorney General
19 Julio A. Hernandez directed Legal Secretary Donna Kulczyk to serve another copy
20 of the CD-ROM with the WMVARS video to Plaintiff, which she did. (Declaration
21 of Donna Kulczyk, ¶2, Exhibit A; Hernandez Decl., ¶2.) It was not the intention of
22 Defendants to serve a cracked CD-ROM, and counsel immediately resent a copy of
23 the CD-ROM to Plaintiff upon being informed of the cracked CD-ROM.
24 (Hernandez Decl., ¶2.)

25
26
27 ¹ Plaintiff originally served and filed a copy of his discovery motion, ECF 52.
28 The court struck the motion for failure to comply with Local Rules, ECF 53.
Subsequently the court allowed for filing of motion, ECF 63.

1 **III. DEFENDANT BATES’S MVARs VIDEO WAS PROVIDED AS AVAILABLE**
2 **AND WAS NOT EDITED TO SHORTEN TIME AS ALLEGED BY PLAINTIFF.**

3 **A. Bates’s Patrol Vehicle MVARs Does Not Embed Date and Time**
4 **Stamp.**

5 Plaintiff is correct that the provided Officer Bates MVARs video does not
6 include time and date stamp. However, this is because the video recording system
7 used in Officer Bates’s patrol vehicle does not embed the date and time stamp,
8 unlike the WMVARs system used in Sargent O’Brien’s patrol vehicle. (Declaration
9 of Garret Morris, ¶5&6.)

10 **B. The Audio is Available Through the Left Audio Channel.**

11 The MVARs video audio is separated into different audio channels.
12 (Hernandez Decl., ¶3.) Plaintiff can download open-source software, such as VLC
13 Media, that allows him to isolate the left audio channel that will allow him to hear
14 the voice audio recording. (Hernandez Decl., ¶3.)

15 **C. Officer Bates’s Patrol Vehicle MVARs Video Was Not Edited to**
16 **Shorten the Video.**

17 On June 27, 2023, Officer Bates’s patrol vehicle was equipped with the
18 MVARs. (Morris Decl., ¶4.) The MVARs system works by recording dash cam
19 video on to a physical media (CD-R). (*Ibid.*) At the end of the shift, the officer
20 provides the physical media to the Area office for retention. (*Ibid.*) These MVARs
21 Disc can be duplicated through a specialized software only. (*Ibid.*) A copy can be
22 written onto a new physical media or saved onto a computer hard-drive as an
23 electronic file. (*Ibid.*)

24 However, when duplicated, for unknown reasons, the software adds additional
25 video time to the length of the video. (*Ibid.*) The California Highway Patrol (CHP)
26 has attempted, and thus far has been unable to resolve these issues. (*Ibid.*)
27 Consequently, the downloaded video includes additional video time. (*Ibid.*)

28 Additionally, the MVARs video includes blurring due to privacy concerns.
(Hernandez Decl., ¶4.)

CONCLUSION

Defendants have provided discovery to plaintiff in good faith. Upon learning that Plaintiff received a cracked CD-ROM, counsel for Defendants immediately sent a second copy. Moreover, the MVARs video of Bates's patrol vehicle was provided to Plaintiff as available to CHP. Defendants respectfully request that Plaintiff's motion be denied.

Dated: February 28, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
CATHERINE WOODBRIDGE
Supervising Deputy Attorney General

/s/ Julio A. Hernandez

JULIO A. HERNANDEZ
Deputy Attorney General
*Attorneys for Defendants
Christopher Bates and Jeffrey
O'Brien*

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants Christopher Bates and Jeffrey O'Brien certifies that this brief contains 643 words, which complies with the word limit of L.R. 11-6.1.

Dated: February 28, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
CATHERINE WOODBRIDGE
Supervising Deputy Attorney General

/s/ Julio A. Hernandez

JULIO A. HERNANDEZ
Deputy Attorney General
*Attorneys for Defendants Christopher
Bates and Jeffrey O'Brien*

DECLARATION OF SERVICE BY E-MAIL AND U.S. MAIL

Case Name: *Macy, Jeff, et al. v. California Highway Patrol, et al.*

Case No.: **5:23-CV-02245-RGK-BFM**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On **February 28, 2025**, I served the attached **DEFENDANTS' RESPONSE TO PLAINTIFF'S DISCOVERY MOTION (ECF 63)** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Jeff Macy

P.O. Box #103

Twin Peaks, CA 92391

E-mail Address: macybuilders@yahoo.com

In Pro Per

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on **February 28, 2025**, at Sacramento, California.

Donna Kulczyk

Declarant

/s/ Donna Kulczyk

Signature